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U.S. COURT OF APPEALS

CASE No. 12-15737

2014 FEB 10 PM 1:57

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

FILED _____
DOCKETED _____
DATE INITIAL

MICHAEL E. DAVIS, aka TONY DAVIS, VINCE FERRAGAMO,
and BILLY JOE DUPREE, on behalf of themselves and all others
similarly situated,

Plaintiffs and Appellees,

v.

ELECTRONIC ARTS, INC.

Defendant and Appellant.

Appeal From The United States District Court,
Northern District of California, Case No. 10-CV-3328 RS (DMR),
The Honorable Richard Seeborg

**APPELLEES' NOTICE OF FILING UNDER SEAL THE BRIEF OF
APPELLEES AND SUPPLEMENTAL EXCERPTS OF RECORD
VOLUME 11, PURSUANT TO PROTECTIVE ORDER**

HENRI LAW GROUP

Brian D. Henri (Cal. Bar No. 200205)
624 University Ave
Palo Alto, California 94301
Telephone: (650) 485-2767
Facsimile: (650) 485-2768
Attorneys for Plaintiffs/Appellees

**TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS' OF
RECORD:**

In accordance with Federal Rule of Appellate Procedure 27 and Ninth Circuit Rule 27-13(b), Plaintiffs-Appellees Michael E. Davis, Vince Ferragamo, and Billy Joe DuPree (collectively "Appellees") hereby request to file under seal the following documents: Brief of Appellees and Supplemental Excerpts of Record, Volume 11.

Attached to this request as Exhibit A is The Protective Order, issued on May 12, 2011 by the district court.

The exhibits contained in Volume 11 of the Supplemental Excerpts of Record contain information that was produced by defendant-Appellant Electronic Arts Inc. in discovery and designated as confidential pursuant to the Protective Order issued by the district court. The documents were filed under seal before the district court – though the district court never entered an order granting or denying Appellees' Administrative Motion to File Documents Under Seal (District Court Docket No. 101). The Brief of Appellees also addresses and discusses the contents of the documents EA has marked as confidential.

For these reasons, Appellees' respectfully request that the Court permit filing under seal of the indicated documents.

DATED: February 10, 2014

HENRI LAW GROUP

By: Brian D. Henri
BRIAN D. HENRI
Attorneys for Plaintiffs and Appellees

CERTIFICATE OF SERVICE

I am more than eighteen years old and am not a party to this action. My business address is Henri Law Group, 624 University Avenue, Palo Alto, California 94301.

On February 10, 2014, I served the foregoing document described as

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by placing a true and correct copy thereof in a sealed package(s) designated by Federal Express for that purpose, with delivery fees paid or provided for by the sender, and delivering such package(s) to a box or other facility regularly maintained by Federal Express, or delivered to an authorized courier or driver authorized by federal express to receive documents, addressed as follows:

Attorneys for defendant/appellant Electronic Arts Inc.

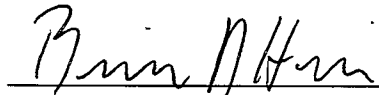
Alonzo Wickers IV
Karen Henry
DAVIS WRIGHT TREMAINE LLP
865 S Figueroa St., Suite 2400
Los Angeles, CA 90017-2566
Tel: (213) 633-6800

Robert Van Nest
R. James Slaughter
KECKER & VAN NEST LLP
633 Battery St.
San Francisco, CA 94111-1899
Tel: (415) 391-5400

I am readily familiar with my firm's practice for collection and processing correspondence for overnight delivery by Federal express, to wit, that correspondence be deposited with Federal Express this same day in the ordinary course of business.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on February 10, 2014 at Palo Alto, California.

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BRIAN D. HENRI

HENRI LAW GROUP

Attorney for Appellees Michael E. Davis,
Vince Ferragamo, and Billy Joe DuPree

E-Filed 5/12/11

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHAEL E. DAVIS, aka TONY DAVIS,
VINCE FERRAGAMO, AND BILLY JOE
DUPREE, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

ELECTRONIC ARTS, INC.,

Defendant.

CASE NO. 10-CV-3328 RS

**STIPULATED [PROPOSED]
PROTECTIVE ORDER REGARDING
CONFIDENTIALITY OF DOCUMENTS
AND MATERIALS**

Judge: The Honorable Richard Seeborg

Date Comp. Filed: July 29, 2010

Trial Date: None

1 In order to protect confidential information obtained from or disclosed by the respective
2 parties in connection with this case and pursuant to the Court's authority under Federal Rule of
3 Civil Procedure 26(c) and Federal Rule of Evidence 502, the parties submit as follows:

4 **PURPOSES AND LIMITATIONS**

5 1. Disclosure and discovery activity in this action is likely to involve production of
6 confidential, proprietary, or private information for which special protection from public
7 disclosure and from use for any purpose other than prosecuting this litigation would be warranted.
8 The unrestricted disclosure of such information would cause undue damage to the parties and their
9 businesses or to third parties. Accordingly, the parties in this action hereby stipulate to and
10 petition the Court to enter the following Protective Order. The parties acknowledge that this Order
11 does not confer blanket protections on all disclosures or responses to discovery, and that the
12 protections outlined herein extend only to the limited information or items that are entitled to
13 treatment as confidential under applicable legal principles.

14 2. The parties further acknowledge, as set forth in ¶ 20, below, that this Protective
15 Order creates no entitlement to file confidential information under seal; Civil Local Rule 79-5 sets
16 forth the procedures that must be followed, and reflects the standards that will be applied, when a
17 party seeks permission from the Court to file material under seal.

18 3. Documents and other information produced by the parties hereto in connection with
19 this action shall be used solely for purposes of prosecuting, defending, or attempting to settle this
20 action, whether such information is designated "Confidential" or not. The protections outlined in
21 this Order, however, apply only to confidential information which has been appropriately
22 designated as such.

23 **NONDISCLOSURE OF CONFIDENTIAL INFORMATION**

24 4. Except with the prior written consent of the party or non-party originally
25 designating a document, discovery response, or deposition transcript as "Confidential",
26 confidential information as defined herein may not be disclosed to any person except as
27 specifically authorized herein.

DESIGNATING CONFIDENTIAL MATERIAL

5. Any party or non-party may designate as confidential (by stamping the relevant page or portion "Confidential" or as otherwise set forth herein) any document, response to discovery, or deposition transcript which that party or non-party ("Disclosing Party") considers in good faith to contain information involving trade secrets, confidential business, educational, financial or other information subject to protection under California or federal law, or another applicable legal standard ("Confidential Information"). Where a document or response consists of more than one page, the first page and each page on which Confidential Information appears shall be so designated.

6. A party or non-party may designate information disclosed by it during a deposition or in response to written discovery as "Confidential" by so indicating in said responses or on the record at the deposition and requesting the preparation of a separate transcript of such material. Additionally a party may designate in writing, within 21 days after receipt of said responses or of the deposition transcript for which the designation is proposed, that specific pages of the transcript and/or specific responses be treated as Confidential Information. Any other party may object to such proposal, in writing or on the record. Upon such objection, the parties shall follow the procedures described in ¶¶ 17(a)-(d) below. Deposition transcripts shall be treated in their entirety as Confidential Information for 21 days after receipt. All parties shall affix the legend required by paragraph 5 on each page of the deposition transcript designated Confidential at the deposition or by subsequent written notice.

7. If it comes to a Disclosing Party's attention that information or items that it designated for protection do not qualify for protection, the Disclosing Party must promptly notify all other parties that it is withdrawing the mistaken designation.

8. If timely corrected, an inadvertent failure to designate qualified information or items as "Confidential" does not, standing alone, waive the designating party's right to secure protection under this Order for such material. If material is appropriately designated as "Confidential" after the material was initially produced, the receiving party, on timely notification of the designation, must make reasonable efforts to assure that the material is treated in accordance

PCL XL error

Subsystem: KERNEL

Error: IllegalAttributeValue

Operator: ReadImage

Position: 4342

CASE No. 12-15737

**UNITED STATES COURT OF APPEALS
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By: _____

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Attorneys for Plaintiffs and Appellees

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SUPPLEMENTAL EXCERPTS OF RECORD, VOLUME 11 OF 11

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Attorneys for defendant/appellant Electronic Arts Inc.

Alonzo Wickers IV
Karen Henry
DAVIS WRIGHT TREMAINE LLP
865 S.Figueroa St., Suite 2400
Los Angeles, CA 90017-2566
Tel: (213) 633-6800

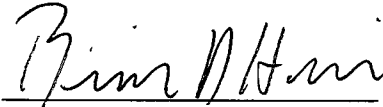
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